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FILED

JAN 04 2005

CLERK OF DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

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SAN JOSE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

13 UNITED STATES OF AMERICA, )

14 Plaintiff, )

15 vs. )

16 DINA BAUTISTA, )  
a/k/a Rosa Maria Flores Nuno, )

17 Defendant. )  
18

No. CR 05-70838-PVT

[Proposed] ORDER GRANTING  
REQUEST TO CONTINUE  
PRELIMINARY HEARING OR  
ARRAIGNMENT

19 Upon stipulation of the parties in open court on December 8, 2005, and good cause  
20 appearing, the Court finds as follows:

21 1. The United States of America, defendant Dina Bautista, and her attorney, Angela  
22 Hansen, Esq., requested a continuance of the date set for preliminary hearing or indictment from  
23 Thursday, December 8, 2005, to Thursday, January 12, 2006, at 9:30 a.m.

24 2. The parties stipulated that this continuance was necessary to give the parties adequate  
25 time to attempt to resolve this matter, for the government to provide discovery, and for the  
26 defense to meaningfully review the discovery and make a pre-charge decision regarding a  
27  
28

1 possible disposition in this matter.

2 3. The defendant was advised in open court, and acknowledged her understanding, that  
3 under Rule 5.1(c) of the Federal Rules of Criminal Procedure, she was entitled to a preliminary  
4 hearing within 10 days of her initial appearance unless an indictment is filed beforehand, and  
5 pursuant to 18 U.S.C. § 3161(b) she was entitled to be indicted within 30 days of her arrest in  
6 this matter. After consultation with her attorney, the defendant stated that she wished to waive  
7 those rights and continue the hearing set for preliminary hearing or indictment until January 12,  
8 2006. The Court found that the defendant had provided a knowing and intelligent waiver of her  
9 rights as set forth above.


10 4. The court finds and the parties agreed that the ends of justice served by this  
11 continuance outweigh the interests of the defendant and the public in a speedy indictment and  
12 trial inasmuch as additional time was needed for the government to provide the defense with  
13 discovery, for the defendant to meaningfully review that discovery, and for the parties to fairly  
14 evaluate the possibility of a pre-charge resolution in this matter. Failure to grant the requested  
15 continuance would deny counsel for both parties the reasonable time necessary for effective  
16 preparation regarding these decisions taking into account the exercise of due diligence.

17 5. Finally, the Court finds good cause to extend the time limits under Rule 5.1(c)  
18 pursuant to Rule 5.1(d). Accordingly,

19 IT IS HEREBY ORDERED that the date set for preliminary hearing or indictment is  
20 continued from Thursday, December 8, 2005, to Thursday, January 12, 2006.

21 IT IS FURTHER ORDERED that the period of time from December 8, 2005 through and  
22 including January 12, 2006 shall be excluded from the time within which an indictment must be  
23 filed, for the reasons set forth above, pursuant to 18 U.S.C. § 3161 (h)((8)(A) considering the  
24 factors set forth in § 3161(h)(8)(B)(i) and (iv).

25 Dated this 4<sup>th</sup> day of January, 2006.

26   
27 PATRICIA V. TRUMBULL  
28 United States Magistrate Judge